

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R.W.R. and A.F.R., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RODNEY WADE RIMES, SR.,

Respondent-Appellant,

and

DIXIE RIMES,

Respondent.

UNPUBLISHED

April 17, 2003

No. 243545

Emmet Circuit Court

Family Division

LC No. 93-003494-NA

Before: Talbot, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(g) and (j). We affirm.

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate the respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review for clear error the trial court's decision with regard to the child's best interests. *Id.*

On the record presented for our review, we find that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Expert testimony established that respondent-appellant had serious personality deficiencies that persisted over time, which made respondent-appellant a depressive, pessimistic individual prone to criminal conduct and

volatile interpersonal relationships. On that point, testimony was abundantly clear that, despite numerous attempts by the trial court to ensure that respondent-appellant and the children's mother remained separated, respondent-appellant flagrantly and willfully disregarded the orders of the trial court and decided to keep her company despite the unstable and explosive nature of that relationship.

Moreover, respondent-appellant admitted that his children observed many incidents of domestic violence erupt between himself and the children's mother but, despite this acknowledgement, remained unwilling to terminate that "on again, off again" thirteen-year relationship. Further, respondent-appellant admitted that he served a prison sentence for criminal sexual conduct, fourth-degree, for an assault perpetrated on his stepdaughter and served time for five other felonies. Indeed, respondent-appellant admitted that, during his children's lives, he was incarcerated three or four different times. Additionally, respondent-appellant admitted to using marijuana when his children were in the home and that, at one point, he used marijuana daily. However, notwithstanding respondent-appellant's addiction to and dependence upon controlled substances, respondent-appellant admitted that when released from jail on March 22, 2002, he celebrated by drinking a six-pack of beer. We find that respondent-appellant's most recent conduct is in keeping with his belief that sobriety "stinks."

Although respondent-appellant emphatically denied ever neglecting his children's physical needs, he did admit that he neglected their educational needs, which was particularly evident considering that both children were functioning well below their current grade level and displayed marked difficulty in school. Expert and lay testimony alike established that these children need stability and consistency immediately to thrive and ultimately succeed. The children need proactive, vigilant parents to overcome past chronic neglect, and all expert witnesses concurred that respondent-appellant simply does not have the energy reserves to meet these children's needs.

We further find that the evidence produced did not demonstrate that termination of respondent-appellant's parental rights was antithetical to the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. The expert witnesses proffered at trial all concurred that the children did not have a bond with respondent-appellant and that neither child has any confidence that respondent-appellant can provide them with stability and consistency. Indeed, expert testimony established that these children were "docile" as they learned that it was easier to never express any wants and simply accept what comes. Moreover, expert testimony revealed that, although respondent-appellant wanted to be a part of his children's lives, he was not necessarily asking for their return. Testimony was clear that both children began to experience an increased self-esteem and benefited from the stable environment provided by their foster home. Consequently, the trial court did not err in terminating respondent-appellant's parental rights.

Finally, we find no violation of respondent-appellant's right to due process of law. In support of his position, respondent cites that it is "'plain beyond the need for multiple citation that a parent's desire for and right to 'the companionship, care, custody and management of his or her children,' is an important interest that 'undeniably warrants deference and absent a powerful countervailing interest, protection.'" *Lassiter v Dep't of Social Services*, 452 US 18, 27; 101 S Ct 2153, 2159-2160; 68 L Ed 2d 640 (1981) (quoting *Stanley v Illinois*, 405 US 645, 651; 92 S Ct 1208, 1212; 31 L Ed 2d 551 [1972]).

It is difficult to imagine more “powerful counter veiling interests” than pervasive and chronic neglect, domestic violence, substance abuse and criminality. The expert and lay testimony presented at trial well satisfied the clear and convincing evidentiary standard necessary to find that termination of respondent-appellant’s parental rights was justified pursuant to MCL 712A.19b(3)(g) and (j). Further, the evidence plainly did not demonstrate that termination of respondent-appellant’s rights was contrary to the children’s best interests. The trial court did not violate respondent-appellant’s constitutional right to due process of law. We thus affirm the trial court’s decision in every respect.

Affirmed.

/s/ Michael J. Talbot

/s/ David H. Sawyer

/s/ Peter D. O’Connell